IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 1595 of 2005

Between:

U. Mallikarjuna, S/o. Narayana, Hindu,
R/o. D.No. 4-2-36, Keechappamatham Street, Uravakonda,

Ananthapur District.

.... PETITIONER

AND

1 The Depot Manager, APSRTC, Guntakal Depot, Guntakal,
Ananthapur District.
2 The Divisional Manager, APSRTC, Ananthapur Division,
Ananthapur District.
3 The Regional Manager, APSRTC, Ananthapur Region,
Ananthapur District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate declaring the proceedings No. 03(2)(11)/98-GTL dated 11-4-2000 and 8-5-2000 of the 1st respondent and proceedings No. TY/19(264)/01-DVM-A dt. 23-2-2002 of the 2nd respondent and proceedings No. PA/675(03)/03-RM-A dt.
18-4-2003 of the 3rd respondent as illegal, arbitrary and in violation of the principles of natural justice and in violation of Art.14 and 21 of the Constitution of India and consequentially direct the respondents to add one annual increment to the pay of the petitioner.

Counsel for the Petitioner: S.SURENDRA KUMAR

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court, at the admission stage, made the following:

ORDER:

Alleging that petitioner was responsible for causing an accident and caused damages to the bus, a chargesheet was issued to him on 25-02-2000 calling for his explanation. The writ petitioner gave his explanation denying the charges. Without conducting any enquiry, the disciplinary authority imposed a penalty of deferment of one annual increment with cumulative effect, by its proceedings dated 07-11-2004 and further to explain as to why an amount of Rs.1,000/- should not be recovered towards damages, against which petitioner is said to have filed an appeal and review before the second and third respondents respectively, which were rejected. Questioning the same, the present writ petition is filed.

2. Learned counsel appearing for the writ petitioner contended that imposing a major penalty without conducting any enquiry is illegal and since the incident in question has taken place long back, instead of remitting the matter to the Disciplinary Authority, he prays to add one annual increment to the pay of the petitioner.

3. For certain irregularities committed by the petitioner, a chargesheet was issued to the petitioner and an explanation was called for. Without conducting any enquiry, a penalty of deferment of one annual increment, with cumulative effect, was imposed on him. There cannot be any dispute that imposing the penalty of deferment of one annual increment with cumulative effect, is a major penalty. But such a major penalty cannot be imposed without conducting any departmental enquiry. Though it is matter to be remitted back to the Disciplinary Authority for appropriate decision, as the incident in question took place about more than two years back, therefore, considering the facts and circumstances of the case, minor penalty can be imposed on the petitioner.

In the result, the writ petition is disposed of modifying the penalty passed by

the Disciplinary Authority to that of deferment of one annual increment without cumulative effect. In the circumstances, no costs.

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K.C. BHANU, J

February 3, 2005

MRR

Copy to:

1 The Depot Manager, APSRTC, Guntakal Depot, Guntakal, Ananthapur District.
2 The Divisional Manager, APSRTC, Ananthapur Division, Ananthapur District.
3 The Regional Manager, APSRTC, Ananthapur Region, Ananthapur District.

4 Two C.D. Copies.